

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10137 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAJKUMAR NENUMAL AHUJA (SINDHI)

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 7th November, 1998 made by the

Commissioner of Police, Ahmedabad City, under the powers conferred upon him under Sub-section (1) of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a habitual offender and for that matter, 'a dangerous person' within the meaning of Section 2 (c) of the Act, and his activities are alleged to be prejudicial to the maintenance of public order. Three offences punishable under Chapter XVII of the Indian Penal Code have been registered against the petitioner. In each of the said offences, stolen articles have been recovered from the petitioner. It is submitted that the aforesaid three offences have been registered against the petitioner and three other persons. One of them being Moti Narayan Patil. The said Moti Narayan Patil, under order dated 24th July, 1998, was detained under the Act. The said order was challenged before this court in Special Civil Application No. 8429 of 1998. The said petition came up for hearing on 8th February, 1999. This Court [Coram : Justice D.C Srivastav] took a view that the offences alleged against the said detenu relate to maintenance of law and order but had no adverse effect on the public order. Since, for the same offences and on the same evidence a Bench of this Court has taken a view that the offences do not relate to maintenance of 'public order', I shall follow suit. The activities of the petitioner, therefore, cannot be said to be detrimental to the maintenance of 'public order'. Hence, the petitioner could not have been detained under the Act.

4. Petition is, therefore, allowed. The impugned order dated 7th November, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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Prakash\*